

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999

A Bill

SENATE BILL 388

4
5 By: Senator Bearden
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For An Act To Be Entitled

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9 "AN ACT TO AMEND ARKANSAS CODE 8-7-905; TO ADD A
10 SECTION TO ALLOW FOR EXPENDITURE OF INTEREST ON THE
11 PETROLEUM STORAGE TANK TRUST FUND FOR ADMINISTRATIVE
12 AND PERSONNEL COSTS; AND FOR OTHER PURPOSES."

Subtitle

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15 "AN ACT TO PROVIDE FOR PAYMENT OF
16 ADMINISTRATIVE AND PERSONNEL COSTS FROM
17 THE PETROLEUM STORAGE TANK FUND."
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code 8-7-905 is amended to read as follows:

23 "8-7-905. Petroleum Storage Tank Trust Fund.

24 (a) There is established on the books of the Treasurer of State,
25 Auditor of State, and Chief Fiscal Officer of the State a fund to be known as
26 the 'Petroleum Storage Tank Trust Fund,' hereinafter referred to as the
27 'fund.'

28 (b) The fund will be administered by the director, who shall make
29 disbursements from the fund as authorized by this subchapter.

30 (c) The fund shall consist of gifts, grants, donations, and such other
31 funds as may be made available by the General Assembly, including all interest
32 earned upon money deposited in the fund, fees assessed under this subchapter,
33 any moneys recovered by the department, the proceeds of bonds issued by the
34 Arkansas Development Finance Authority for the benefit of the fund, and any
35 other moneys legally designated for the fund.

36 (d) Moneys in the fund may be expended by the director solely for the

1 following purposes, as limited by the provisions of subsection (e) of this
2 section:

3 (1) The state share mandated by the federal Resource Conservation
4 and Recovery Act of 1976, as amended;

5 (2) To pay costs incurred by the commission, the director, the
6 Attorney General or the advisory committee in the performance of their duties
7 under this subchapter;

8 (3) To pay reimbursement for taking corrective action or to
9 compensate owners or operators for claims by third parties for bodily injury
10 and property damage, or both, caused by accidental releases from qualified
11 storage tanks;

12 (4) To pay reasonable and necessary costs and expenses of the
13 department for taking corrective action caused by accidental releases from a
14 storage tank of unknown ownership or when corrective action is not commenced
15 by the owner or operator in a timely manner;

16 (5) To reimburse owners and operators in the vicinity of the
17 release for performing short-term testing or monitoring which is in addition
18 to that required by the department's rules and regulations if the department
19 has a reasonable basis for believing that such petroleum underground storage
20 tank or tanks may be the source of the release. The owners and operators of
21 petroleum underground storage tanks, including out-of-service and
22 nonoperational tanks, not found to be the source of the release and who
23 cooperate with the department may apply to the fund for reimbursement for such
24 testing and monitoring costs, not including lost managerial time or loss of
25 revenues because of temporary business closure.

26 (6) To pay department costs for operations under this subchapter
27 and subchapter 8 of this chapter from the interest accrued on moneys in this
28 fund in an amount not to exceed three hundred twenty thousand dollars
29 (\$320,000) in fiscal 1999-2000 and not to exceed three hundred thirty-three
30 thousand twenty-four dollars (\$333,024) in fiscal year 2000-2001, with an
31 annual escalator not to exceed three percent (3%) thereafter.

32 (e) Notwithstanding any other provisions of this subchapter, the
33 director, upon finding that a release may present an imminent and substantial
34 hazard to the health of persons or to the environment and that an emergency
35 exists requiring immediate action to protect the public health and welfare or
36 the environment, may, without receiving prior advice from the advisory

1 committee, issue an order reciting the existence of such an imminent hazard
 2 and emergency and ordering a disbursement or reimbursement of up to fifty
 3 thousand dollars (\$50,000) from the fund so that such action may be taken as
 4 he determines to be necessary to protect the health of such persons or the
 5 environment and to meet the emergency.

6 (f)(1) No expenditure from the fund shall be made for expenses for
 7 retrofitting or replacement of petroleum storage tanks.

8 (2) No expenditure from the fund pursuant to subdivisions (d)(3)
 9 and (d)(5) of this section shall be made for attorney's fees.

10 (g) The liability or obligation of the fund is not the liability or
 11 obligation of the State of Arkansas; provided, however, that this subsection
 12 shall not be construed as relieving the fund of any liability or obligation
 13 prescribed in this subchapter upon the entry of a valid court order or valid
 14 final order of the Arkansas State Claims Commission establishing a judgment
 15 against any state agency, board, department, or commission or where a
 16 settlement agreement has been reached arising from third-party claims against
 17 any state agency, board, department, or commission where such state agency,
 18 board, department, or commission is determined to be the owner or operator.

19 (h) Nothing in this subchapter shall be construed to abrogate or waive
 20 the provisions of Arkansas Constitution, article 5, § 20."

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 22 SECTION 2. All provisions of this act of a general and permanent nature
 23 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
 24 Revision Commission shall incorporate the same in the Code.

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 26 SECTION 3. If any provision of this act or the application thereof to
 27 any person or circumstance is held invalid, such invalidity shall not affect
 28 other provisions or applications of the act which can be given effect without
 29 the invalid provision or application, and to this end the provisions of this
 30 act are declared to be severable.

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 32 SECTION 4. All laws and parts of laws in conflict with this act are
 33 hereby repealed.

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